

## Department of State

652.237-72

and others who do not have a direct contractual relationship with the United States are not covered by this section.

*With Libya* means transactions between any person and the Government of Libya, government entities of Libya, or any other organization wholly owned or effectively controlled by the Government of Libya. It is the responsibility of the entity submitting Section 406 information to disclose existing relationships with the entities that it has reasonable grounds to believe are or may be Libyan. In case of doubt or dispute, the Department of State shall determine, at its sole discretion, whether any organization is a governmental entity of Libya, wholly owned by the Government of Libya, or effectively controlled by the Government of Libya.

### Certification

Based on the foregoing, I hereby certify on behalf of this organization that it is is not doing business with Libya as those terms are used in Section 406(c) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.

(e) *Signature*: By signing this document, the offeror indicates that to the best of his or her knowledge, all of the representations and certifications provided in response to the questions contained in this Statement of Qualifications are accurate, current, and complete and that the offeror is aware of the penalty prescribed in 18 U.S.C. 1001 for making false statements.

(End of provision)

[69 FR 19339, Apr. 13, 2004]

### 652.237-70 Compensatory time off.

As prescribed in 637.110(a), insert the following clause:

#### COMPENSATORY TIME OFF (DEC 1994)

(a) Compensatory time off means time from work during the personal service contract employee's basic work week in exchange for performing an equal amount of irregular or occasional overtime work which is officially ordered or approved.

(b) At the discretion of the Contracting Officer's Representative (COR), the contractor may earn compensatory time off in accordance with 3 FAM Section 232.6—Compensatory Time Off. Compensation time off remaining to the credit of a personal services contract employee at the end of a 16-week period and/or at the end of the contract period shall be forfeited.

(c) Compensatory time may not be converted to overtime.

(End of clause)

[59 FR 66772, Dec. 28, 1994]

### 652.237-71 [Reserved]

### 652.237-72 Observance of Legal Holidays and Administrative Leave.

As prescribed in 637.110(b), insert the following clause:

#### OBSERVANCE OF LEGAL HOLIDAYS AND ADMINISTRATIVE LEAVE (APR 2004)

(a) The Department of State observes the following days as holidays:

New Year's Day  
Martin Luther King's Birthday  
Washington's Birthday  
Memorial Day  
Independence Day  
Labor Day  
Columbus Day  
Veterans Day  
Thanksgiving Day  
Christmas Day

Any other day designated by Federal law, Executive Order, or Presidential Proclamation.

(b) When any such day falls on a Saturday or Sunday, the following Monday is observed. Observance of such days by Government personnel shall not be cause for additional period of performance or entitlement to compensation except as set forth in the contract. If the contractor's personnel work on a holiday, no form of holiday or other premium compensation will be reimbursed either as a direct or indirect cost, unless authorized pursuant to an overtime clause elsewhere in this contract.

(c) When the Department of State grants administrative leave to its Government employees, assigned contractor personnel in Government facilities shall also be dismissed. However, the contractor agrees to continue to provide sufficient personnel to perform round-the-clock requirements of critical tasks already in operation or scheduled, and shall be guided by the instructions issued by the contracting officer or his/her duly authorized representative.

(d) For fixed-price contracts, if services are not required or provided because the building is closed due to inclement weather, unanticipated holidays declared by the President, failure of Congress to appropriate funds, or similar reasons, deductions will be computed as follows:

(1) The deduction rate in dollars per day will be equal to the per month contract price divided by 21 days per month.

(2) The deduction rate in dollars per day will be multiplied by the number of days

services are not required or provided. If services are provided for portions of days, appropriate adjustment will be made by the contracting officer to ensure that the contractor is compensated for services provided.

(e) If administrative leave is granted to contractor personnel as a result of conditions stipulated in any “Excusable Delays” clause of this contract, it will be without loss to the contractor. The cost of salaries and wages to the contractor for the period of any such excused absence shall be a reimbursable item of direct cost hereunder for employees whose regular time is normally charged, and a reimbursable item of indirect cost for employees whose time is normally charged indirectly in accordance with the contractor’s accounting policy.

(End of clause)

[59 FR 66772, Dec. 28, 1994, as amended at 64 FR 43634, Aug. 11, 1999; 69 FR 19343, Apr. 13, 2004; 76 FR 20251, Apr. 12, 2011]

#### **652.237-73 Statement of Qualifications for Preference as a U.S. Person.**

As prescribed in 637.110(c), insert the following provision:

##### **STATEMENT OF QUALIFICATIONS FOR PREFERENCE AS A U.S. PERSON (APR 2004)**

(a) This solicitation is subject to Section 136 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (22 U.S.C. 4864). The Act encourages the participation of United States persons and qualified United States joint venture persons in the provision of local guard services overseas, and provides for a preference for eligible offerors.

(b) *Definitions.* As used in this provision—

*Eligible offer* means an offer that (1) is otherwise responsive to the solicitation; and (2) contains a fully prepared Statement of Qualifications (see paragraph (d) of this provision), which upon review is determined by the Government to meet the requirements of Section 136 for assignment of preference as a U.S. person.

*Preference* means subtraction by the Government of ten percent (10%) from the total evaluated price of an offer.

*U.S. person* means a company, partnership, or joint venture that the Government determines, after consideration of all available information, including but not limited to that provided by the offeror in response to the solicitation, to be qualified for assignment of preference pursuant to Section 136.

(c) *Representation.* The offeror represents as part of its offer that it is, is not eligible for preference as a U.S. person. [Complete a Statement of Qualifications for Purposes of Obtaining Preference as a U.S. Person if the offeror

represents that it is eligible. See paragraph (d) of this provision.]

*Warning:* Any material misrepresentation made in the Statement of Qualifications may be the basis for disqualification of an offeror and reference for consideration of suspension or debarment or for prosecution under Federal law (cf. 18 U.S.C. 1001). The Government will determine offeror qualifications primarily on the basis of information submitted in the Statement of Qualifications, including Attachments thereto, but the Government may, at its discretion, rely on information contained elsewhere in the offeror’s proposal or obtained from other sources.

(d) *Statement of Qualifications for Purposes of Obtaining Preference as a U.S. Person* (22 U.S.C. 4864). An offeror that represents that it is eligible for preference as a U.S. person must provide the following information. This Statement of Qualifications must be a complete and certified document, and submitted as a separate Volume 5, with all necessary attachments, as defined in Section L of this solicitation.

Statement of Qualifications for Purposes of Obtaining Preference as a U.S. Person (22 U.S.C. 4864)

Name and address of U.S. person or organization providing this information:

*Introduction.* Section 136 of the Foreign Relations Authorization Act for Fiscal Years 1990 and 1991, Public Law 101-246 (22 U.S.C. 4864), as amended, provides that a “United States person” or a “qualified United States joint venture” must meet certain requirements, listed in the Act, to be eligible for the statutory preference. To assist business entities to determine whether they qualify as a U.S. person or U.S. joint venture person entitled to preference under Section 136, guidance is hereby provided. Only those prospective offerors submitting a properly completed and certified Volume 5 with their initial proposals will be considered in the determination of eligibility for assignment of preference as a U.S. person or U.S. joint venture person. For ease of reference, statutory language is quoted immediately before the definitions that apply to it. Space for the required information is provided immediately following each definition.

*NOTE:* The Statement of Qualifications shall provide information correctly applicable to the U.S. person whose qualifications are being certified, and shall not include information pertaining to corporate affiliates or subsidiaries. Organizations that wish to use the experience or financial resources of another organization or individual, including parent companies, subsidiaries, or local, national or offshore organizations, must do so